

June 26, 2013

Honourable Fred Horne
Minister of Health
208 Legislature Building
Edmonton, Alberta

Minister, you had asked me to review the matter of providing pay at risk to Alberta Health Services (AHS) employees for the 2012/2013 fiscal year. I have been briefed on the implications of this matter and am pleased to provide the following advice.

The employment arrangements between AHS and the employees in question provide for base salaries, a component of which has to be earned back based upon meeting certain performance targets. This is what is known as the "pay at risk" component of the employees' compensation. Since the 2012/2013 fiscal year ended on March 31, 2013, AHS is in a position to pay out the pay at risk pursuant to what is prescribed in the employees' employment arrangements and based on meeting their performance agreements. The former AHS board, as one of its final acts, authorized the payout of pay at risk for all eligible employees.

If AHS were to withhold the payment of this component of their compensation, AHS could be considered in breach of contract as pay at risk made up a part of these employment agreements. AHS is unable to unilaterally amend these provisions without breaching the terms of the agreements. These employees would be in a position to take legal action against AHS for recovery of their pay at risk and I am advised that these employees likely would be successful.

Furthermore, four eligible employees who left the organization during the 2012/2013 fiscal year received the pay at risk component upon their departure (pro-rated for the time they were with organization during the fiscal year). On the basis of maintaining equity among the recipients of pay at risk at AHS, it would be difficult to justify providing pay at risk to those who departed the organization but not to those who remained for the duration of the fiscal year. You had also informed me that a number of eligible recipients wanted to decline their pay at risk and were told by the board that they could not do so. Most importantly, and as you are aware, pay at risk has been eliminated as part of the compensation model going forward.

In view of these considerations, my recommendations are to proceed as follows:

- Authorize the CEO to award the pay at risk component to eligible staff for the 2012/2013 fiscal year.
- That pay at risk be offered on a voluntary basis and that staff are made aware that they can decline if they so choose.

- That staff be made aware that going forward their employments contracts will be formally amended to remove pay at risk (if this clause still exists in their employment arrangements).
- That a redesigned executive/management compensation system be developed that does not include pay at risk.

If you have any additional questions or wish to discuss this further, please do not hesitate to contact my office.

A handwritten signature in black ink that reads "Janet Davidson". The signature is written in a cursive, flowing style.

Janet M. Davidson, O.C., BScN, MHSA, LLD (Hon)
Official Administrator
Alberta Health Services